



Deputy National Taxpayer Advocate

MEMORANDUM FOR TAXPAYER ADVOCATE SERVICE EMPLOYEES

FROM: Christopher Wagner /s/ 06/16/06
Deputy National Taxpayer Advocate

SUBJECT: Guidance on Manual Refunds

Prior to the clarification of TAS case acceptance criteria, case advocates were required to validate economic hardship as part of their initial case actions. Consequently, when requests were made for an expedited refund, the case advocate often had already secured any information needed to substantiate the issuance of a manual refund. With the clarification of the hardship validation process and new IRM guidance on taxpayer documentation requests, guidance is needed to ensure that manual refunds are appropriately issued.

The case advocate, as always, must ensure that all IRM requirements are met and all appropriate guidance is followed. The case advocate may need to exercise judgment in the area of supporting documentation. While no guidance can address every circumstance, the following guidelines are useful in determining the type of manual refund to be issued, when to issue a manual refund, and what is reasonable documentation of the hardship.

Types of Manual Refunds

- **Form 3753, Manual Refund Posting Voucher (ACH/Direct Deposit)**
This type of refund is deposited within 2 banking days of the submission; however, the transaction may not be reflected on IDRS for 4-6 weeks, or more. The ACH/Direct Deposit refund is initiated with a Form 3753 for exceptional emergencies where relief is needed within 2-3 days.
- **Form 5792, Request for IDRS Generated Refund**
A manual refund issued with a Form 5792 is received by the taxpayer in 7-10 days. Because the refund is generated using IDRS command codes, it is readily visible on IDRS. However, systemic notification of the issuance of a manual refund does not preclude the issuance of duplicate refunds.

NOTE: Generally, a manual refund should not be requested if a refund is scheduled to be released within 2 cycles. The Local Taxpayer Advocate is authorized to sign refund request forms.

When to Issue Manual Refunds

- **IRM/Systemic Requirement**

Specific IRM guidance is provided in various circumstances that actually necessitate the issuance of a manual refund. These circumstances are due to systemic limitations or the need to minimize interest paid by the government. Case advocates should refer to IRM 21.4.4.2.5 for guidance. Examples range from refunds exceeding \$1,000,000 to systemic limitations in generating a check with the proper name line. The latter example could involve a deceased taxpayer or a spouse that is stationed overseas.

- **Hardship Relief**

Many manual refund requests arise from Criteria Code 1-4 (economic burden) cases; however, a situation may exist in a Criteria Code 5-9 case which would also warrant the issuance of a manual refund. In order to provide relief, the case advocate must determine that the taxpayer needs the refund more quickly than normal processing will allow. The Form 5792 should be used if the 7-10 day timeframe will relieve the hardship. The Form 3753 should be used if the extreme urgency of the situation necessitates a quicker refund or if the taxpayer is requesting a direct deposit refund.

- **Partial Refund vs. Total Refund**

When to issue a manual refund, and in what amount, has been problematic for case advocates even prior to the case criteria clarification. Consistency among offices, groups, and advocates has not always been achieved. Issues have ranged from partial manual refunds issued only for the confirmed hardship amount to manual refunds issued for the full overpayment.

Partial refunds should not be routine. Instead, a partial refund should be considered in special circumstances such as when the validity of the full refund amount is in question. Case advocates must weigh the impact of their decision. Consider issuing an offset bypass refund (OBR) when a taxpayer substantiates an economic crisis and the current year refund will be applied to a prior year balance due.

Reasonable Documentation

If a taxpayer is requesting a manual refund based on hardship, documentation of the hardship is required. It is important to remember there are varying approaches in securing documentation. In some instances, oral or written authority may be

appropriate. For example, a detailed history entry explaining the hardship and the urgency of relief may be adequate in some cases. Having secured the necessary approval from the taxpayer or POA, a case advocate may decide to call a third party (i.e., a landlord or a utility company) to verify the taxpayer's situation. However, additional information may be warranted if it appears a taxpayer is intentionally circumventing the normal refund process without cause.

Other documentation may be required based on the underlying case issues. The following examples highlight this point:

- **Repeated Requests**
This is the third year this taxpayer has requested a manual refund based on a hardship. In the two prior years, the taxpayer has presented the same issue and reason for hardship. Documentation of hardship for this taxpayer is required. The taxpayer should be advised that additional refunds may not be considered if he or she fails to take appropriate actions to avoid the need for an expedited refund in the future.
- **Offset Bypass Refunds**
The taxpayer has a balance due on a previous tax year. The current refund is being held or offset to this debt. Documentation by the taxpayer to prove hardship is required to bypass the offset.
- **Z Freeze**
The taxpayer's account contains a Z freeze. In accordance with the Service Level Agreement (SLA) negotiated between TAS and Criminal Investigation, TAS will validate the hardship and the need for an expedited refund.¹
- **Direct Deposit**
TAS is required to provide evidence of the taxpayer's hardship when an ACH/Direct Deposit is initiated under [IRM 3.17.79.5.4.2](#). Examples might include a foreclosure notice, an eviction notice, or a letter from a health care provider stating that services are necessary and will not be provided without prepayment.

The contents of this memorandum will be incorporated into the IRM by December 31, 2006. If you have any questions, please contact Cheryl Harskowitch, Director, Management Accountability, Policy and Strategy at (202) 622-3942.

¹ Criminal Investigation Service Level Agreement, § V; para. C,D,M